Supreme Court, U.S.
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No. 04-____

IN THE
Supreme Court of the United States

HAROLD BRUCE LONDON and
CHRISTINE SAUNDERS LONDON,
Petitioners,
v.

FIELDALE FARMS CORPORATION,
Respondent.

On Petition for a Writ of Certiorari to the
U.S. Court of Appeals for the Eleventh Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the Packers and Stockyards Act's prohibition of "any unfair, unjustly discriminatory, or deceptive practice" extends to all such practices (as the Ninth and Tenth Circuits hold) or only to practices that have or are likely to have an adverse effect on competition (as the Seventh and Eleventh Circuits hold).

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PETITION FOR A WRIT OF CERTIORARI

Petitioners Harold Bruce London and Christine Saunders London seek a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit in this case.

OPINIONS BELOW

The opinion of the Eleventh Circuit (Pet. App. 1a) is reported at 410 F.3d 1295 (11th Cir. 2005). The district court's unreported decision (Pet. App. 21a) is available at 2003 WL 23750660 (N.D. Ga. 2003).

JURISDICTION

The judgment of the court of appeals was entered on June 1, 2005. Pet. App. 1a. On August 19, 2005, Justice Kennedy extended the time to file this petition to September 29, 2005. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISION INVOLVED

Section 202 of the Packers and Stockyards Act (PSA) provides:

> It shall be unlawful for any packer or swine contractor with respect to livestock, meats, meat food products, or livestock products in unmanufactured form, or for any live poultry dealer with respect to live poultry, to:
>
> (a) Engage in or use any unfair, unjustly discriminatory, or deceptive practice or device; or
>
> (b) Make or give any undue or unreasonable preference or advantage to any particular person or locality in any respect, or subject any particular person or locality to any undue or

unreasonable prejudice or disadvantage in any respect; or

(c) Sell or otherwise transfer to or for any other packer, swine contractor, or any live poultry dealer, or buy or otherwise receive from or for any other packer, swine contractor, or any live poultry dealer, any article for the purpose or with the effect of apportioning the supply between any such persons, if such apportionment has the tendency or effect of restraining commerce or of creating a monopoly; or

(d) Sell or otherwise transfer to or for any other person, or buy or otherwise receive from or for any other person, any article for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce; c

(e) Engage in any course of business or do any act for the purpose or with the effect of manipulating or controlling prices, or of creating a monopoly in the acquisition of, buying, selling, or dealing in, any article, or of restraining commerce; or

(f) Conspire, combine, agree, or arrange with any other person (1) to apportion territory for carrying on business, or (2) to apportion purchases or sales of any article, or (3) to manipulate or control prices; or